

Notice of Allowability	Application No.	Applicant(s)	
	10/821,283	HARDY ET AL.	
	Examiner	Art Unit	
	Karen Cochrane Carlson, Ph.D.	1653	

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper filed April 18, 2006.
2. ☒ The allowed claim(s) is/are 1-4,7,8,11-13,17-20,25-27,30,32,33 and 37-46.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>4/18/2006</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte* Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 18, 2006 has been entered.

Claims 1-4, 7, 8, 11-13, 17-20, 25-27, 30, 32, 33, and 37-46 are currently pending and are under examination.

The following is an **Examiner's Statement of Reasons for Allowance**:

Applicants have submitted an IDS for consideration. Raiter et al. (2000) teach that CD4+ T lymphocytes is a primary cellular target for BAT mAb while Hardy et al. (1995) teach that a 48-50 kD antigen was recognized by BAT mAb under reducing and non-reducing conditions. In no place do either of these references provide a sequence for the antigen that BAT mAb binds.

The specification teaches four groups of peptides that BAT mAbs bind – See specification pages 5 and 15 and see the Restriction Requirement in which these four groups of peptides were shown to be patentably distinct. Because the references cited in the IDS do not set forth a sequence for the antigen bound by Bat mAb, and because the specification discloses four sets of sequences/peptides that the Bat mAb binds to during phage -ELISA, it is not predictable that the antigen disclosed in Hardy et al. (1995) is a peptide having any one of these four groups of sequences. Further, while Hardy et al. may disclose an antigen having one of these four groups of sequences, it cannot be concluded which one of the four sequences it has.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the

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issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in black ink that reads "Karen Cochrane Carlson Ph.D." The signature is written in a cursive style with a large, stylized 'K' and a distinct 'Ph.D.' at the end.

KAREN COCHRANE CARLSON, PH.D
PRIMARY EXAMINER